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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,921	07/20/2005	Masanori Ogawa	2710/74696	9558
7590 Donald S. Dowden Cooper & Dunham 1185 Avenue of the Americas New York, NY 10036				
EXAMINER				
KRUEER, KEVIN R				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
10/20/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,921

Applicant(s)

OGAWA ET AL.

Examiner

KEVIN R. KRUEER

Art Unit

1794

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 4 and 5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4, and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1 is anticipated under 35 U.S.C. 102(b) as being anticipated by JP03059049A (herein referred to as Yamazaki).

Yamazaki teaches a composition for molding comprising 40-80wt% polypropylene, 5-35wt% polyethylene, and 15-25wt% ethylene/alpha olefin which is useful for making molded products such as furniture and bumpers (abstract). While Yamazaki does not teach the "for use" limitation, said limitation is (find case law).

With regard to the limitation that the sheet is vacuum or pressure formed, it is noted that the method of making a product does not patentably distinguish a claimed product from a product taught in the prior art unless it can be shown that the method of making the product inherently results in a materially different product. In the present application, no such showing has been made.

With regards to the "no droop under its own weight" limitation, the position is taken that the composition of Yamazaki inherently meets said limitation since the composition of Yamazaki is compositionally identical to the claimed composition.

Art Unit: 1794

3. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Kim (US 6,268,064).

Kim teaches an article for molding comprising a skin layer of polypropylene and a core layer comprising polypropylene, inorganic filler, and 25-30wt% of an ethylene propylene copolymer (abstract).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kim (US 6,268,064), as applied to claims 1 and 3 above.

Kim is relied upon as above, but does not teach the claimed amount of inorganic filler. However, Kim teaches the amount of filler is a result effective variable that controls the article's stiffness (col 4, lines 31+). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the amount of filler in the composition taught in Kim in order to optimize the resulting article's stiffness. Alternatively, the examiner takes the position that "about 15wt%" is close enough to the claimed 20wt% that the skilled artisan would expect a composition with the claimed amount of filler to have the same properties as the composition taught in Kim.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over JP03059049A (herein referred to as Yamazaki), as applied to claim 1 above, and further in view of JP 2002-309050A (herein referred to as Nissan)

Yamazaki is relied upon as above but does not teach the claimed amount of filler. However, Nissan teaches a composition for making bumpers wherein the composition comprises 10-20wt% filler. The filler is added in amounts designed to control stiffness and processability (0014). Thus, it would have been obvious to add 20wt% filler to the composition taught in Yamazaki in order to optimize the stiffness and processability of the composition.

Response to Arguments

This application has been taken non-final because the previous Office Action failed to address the patentability of claims 2, 4, and 5 due to an clerical error in the entry of the amendment accompanying the RCE.

Applicant's arguments have been fully considered but are moot in view of the new grounds of rejection. In order to expedite prosecution, the examiner would like to take this opportunity to respond to some of the argument that may be relevant to the pending rejections. Applicant argues the compositions of Yamazaki are not taught to have good moldability, heat resistance, and dimensional stability. Said argument is noted but is not persuasive because said composition is compositionally identical to the claimed composition and therefore will inherently possess the same properties.

Applicant argues the preamble gives life, meaning and vitality to the claimed subject matter because blow molded materials are not suitable for such materials. Said

Art Unit: 1794

argument is noted but is not persuasive because counsel's argument cannot take the place of evidence. Furthermore, it is noted that blow molded products would read on the claimed products having a "complex shape."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to 33 whose telephone number is (571)272-1510. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571-272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kevin R Kruer/
Primary Examiner, Art Unit 1794